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9 UNITED STATES DISTRICT COURT  
10 DISTRICT OF NEVADA  
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12 JAMES MASON, an individual; MARILYN  
13 MASON, an individual,

14 Plaintiffs,

15 v.

16 DEL AMERICAN, INC.; VEGAS GRAND  
17 CONDOMINIUMS LIMITED PARTNERSHIP;  
18 VEGAS GRAND CONDOMINIUMS  
19 GENERAL PARTNER; VEGAS GRAND,  
20 LTD.; VG GENERAL PARTNER, INC.;  
21 VEGAS GRAND GENERAL, LLC;  
ANACAPRI-D'ESTE, LLC  
CAPRI-D'ESTE, LLC; CAPRI-D'ESTE,  
INC.; DOES 1 through 25 inclusive,

22 Defendants.

Case No.:02:05-CV-0800-BES-PAL

**ORDER**

23 On September 20, 2005, DEL AMERICAN, INC., VEGAS GRAND CONDOMINIUM  
24 LIMITED PARTNERSHIP, VEGAS GRAND CONDOMINIUMS GENERAL PARTNER, LTD.,  
25 VG GENERAL PARTNER, INC., VEGAS GRAND, LTD., VEGAS GRAND GENERAL, LLC  
26 ("Defendants") filed a Motion for Judgment on The Pleadings (#50).<sup>1</sup> Plaintiffs filed their

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28 <sup>1</sup>The Court docket reflects that Defendants filed a Motion for Judgment on The Pleadings (#6) on July 20, 2005. Plaintiff filed an Opposition (#17) on August 16, 2005 and Defendants filed a Reply on August 30, 2005 (#36). On September 20, 2005, Defendants filed a second Motion for Judgment on The Pleadings (#50). Plaintiffs

1 Opposition (#56) on October 11, 2005. Defendants filed their Reply to Plaintiffs' Opposition  
2 on October 25, 2005 (#59) and Plaintiffs filed their Request for Judicial Notice in Opposition  
3 to Defendants' Motion for Judgment on the Pleadings on January 9, 2006 (#72).

4 Rule 12(c) of the Federal Rules of Civil Procedure provides, "[A]fter the pleadings are  
5 closed but within such time as not to delay the trial, any party may move for judgment on the  
6 pleadings." A defendant is not entitled to judgment on the pleadings if the complaint raises  
7 issues of fact which, if proved, would support recovery. *Gen. Conference Corp. of*  
8 *Seventh-Day Adventist v. Seventh-Day Adventist Congregational Church*, 887 F.2d 228, 230  
9 (9th Cir. 1989). "Judgment on the pleadings is proper when the moving party clearly  
10 establishes on the face of the pleadings that no material issue of fact remains to be resolved  
11 and that it is entitled to judgment as a matter of law." *Hal Roach Studios, Inc. v. Richard Feiner*  
12 *and Co., Inc.*, 896 F.2d 1542, 1550 (9th Cir. 1990).

13 After reviewing the relevant pleadings, the Court finds that Defendants have not met  
14 their burden pursuant to Fed.R.Civ.P. 12(c). Therefore, Defendants' Motions for Judgment  
15 on the Pleadings (#50) and (#6) are denied. Because Defendants' Motions are denied, the  
16 Court also denies Plaintiffs' Request for Judicial Notice in Opposition to Defendants' Motion  
17 for Judgment on the Pleadings (#72).

18 Based on the foregoing,

19 IT IS HEREBY ORDERED that Defendants' Motions for Judgment on the Pleadings (#50) and  
20 (#6) are DENIED and Plaintiffs' Request for Judicial Notice in Opposition to Defendants'  
21 Motion for Judgment on the Pleadings is DENIED as moot.

22 DATED: This 23<sup>RD</sup> day of June, 2006.



23  
24 UNITED STATES DISTRICT JUDGE  
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28 filed their Opposition (#56) on October 11, 2005 and Defendants filed their Reply to Plaintiffs' Opposition on  
October 25, 2005 (#59). Defendants' two Motions for Judgment on the Pleadings (#6) appear to be the same,  
thus, the Court will address both of them in this Order.